

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

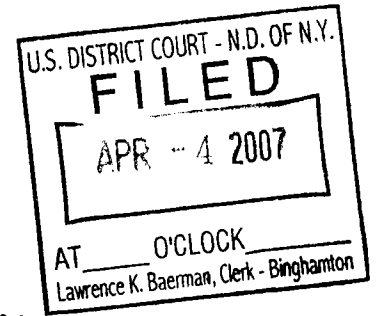
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DONNA D. LOGAN,

Plaintiff,

-against-

DELAWARE AND HUDSON RAILWAY  
COMPANY, INC. d/b/a CP RAIL SYSTEM,

Defendant.  
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**ORDER**

**3:**

**Civil Action No.: 05-CV-1335**

**TJM/DEP**

Defendant, Delaware and Hudson Railway Company, Inc. d/b/a CP Rail System, by its attorneys, McNamee, Lochner, Titus & Williams, P.C., having duly moved this Court for an Order pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, and the motion having regularly come on to be heard at a Term of this Court on March 12, 2007,

NOW, upon reading and filing the defendant's Notice of Motion dated January 29, 2007, its Memorandum of Law dated January 29, 2007, the Affidavit of Scott A. Barbour, Esq., sworn to on January 29, 2007, with attached exhibits, the defendant's Statement of Material Facts dated January 29, 2007, and the Affidavit of Gerard Martillotti, Esq., sworn to on February 16, 2007, with attached exhibits, plaintiff's Additional Statement of Facts dated February 16, 2007, plaintiff's Memorandum of Law dated February 16, 2007, and the Reply Affidavit of Scott A. Barbour, Esq., sworn to on March 1, 2007, with attached exhibits, and defendant's Reply Memorandum of Law dated March 1, 2007, and upon the pleadings and proceedings heretofore had herein, and after due deliberation having been held thereon, it is

ORDERED, that the motion of the defendant, Delaware and Hudson Railway Company, Inc. is hereby granted in part and denied in part, and it is further,

ORDERED, defendant's motion as it pertains to the plaintiff's chronic sinusitis claim is granted and thus, plaintiff's claim regarding the same is dismissed; and it is further

ORDERED, defendant's motion is denied in all other aspects.

DATED:

*April*  
~~March~~ 3, 2007

*Thomas J. McAvoy*  
The Honorable Thomas J. McAvoy